

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, NOVEMBER 19, 2015**

PRESENT: Peter F. Murphy, Springfield District
Frank A. de la Fe, Hunter Mill District
John C. Ulfelder, Dranesville District
Earl L. Flanagan, Mount Vernon District
Kenneth A. Lawrence, Providence District
John L. Litzenberger, Jr., Sully District
James R. Hart, Commissioner At-Large
Janyce N. Hedetniemi, Commissioner At-Large
Timothy J. Sargeant, Commissioner At-Large

ABSENT: Ellen J. Hurley, Braddock District
James T. Migliaccio, Lee District
Julie Strandlie, Mason District

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The meeting was called to order at 8:15 p.m., by Chairman Peter F. Murphy, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

On behalf of the Planning Commission, Chairman Murphy welcomed back Commissioner Lawrence from his extended leave of absence due to health issues. He also commended Commissioner Lawrence's family who aided him and the Commission during his absence. Commissioner Lawrence thanked his fellow Commissioners for their support. In addition, he commended Commissioner Hedetniemi for chairing the Tysons Committee in his absence. He then commended Commissioner Hart for managing the Providence District cases on his behalf during his absence.

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Commissioner Hedetniemi announced that the Planning Commission's Tysons Committee would meet on the following dates at 7:00 p.m. in the Board Conference Room of the Fairfax County Government Center:

- Thursday, January 14, 2016, to discuss Phase One of the Tysons Plan;
- Wednesday, January 27, 2016, to discuss Phase One of the Tysons Plan; and
- Wednesday, February 17, 2016, to discuss Phase Two of the Tysons Plan.

Commissioner Hedetniemi noted that more meetings would be scheduled as the Tysons Plan was reviewed and added that these meetings would be open to the public.

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Commissioner Hart announced that the Planning Commission's Environment Committee would meet on Thursday, December 3, 2015, at 7:00 p.m. in the Board Conference Room of the Fairfax County Government Center to discuss building energy policies.

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On behalf of the Planning Commission, Chairman Murphy wished everyone a happy Thanksgiving. He then announced that the next Planning Commission meeting would be on Thursday, December 3, 2015.

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Chairman Murphy announced that former Commissioner Suzanne Harsel, who passed away earlier in the year, would be interred at Arlington National Cemetery on Tuesday, November 24, 2015, at 2:00 p.m. He recommended that those seeking to attend should arrive approximately 40 minutes early and consult the security staff on-site to direct them to the appropriate location.

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On behalf of Commissioner Strandlie, Commissioner Sargeant announced that there would be a tour of Bailey's Upper Elementary School for the Arts and Sciences on Monday, December 14, 2015, at 7:00 p.m.

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ELECTRIC VEHICLE CHARGING INFRASTRUCTURE WHITE PAPER

(Begin Verbatim Transcript)

Commissioner Hart: Secondly, I have the motion on the White Paper if we're ready. I guess there's no questions on any of that –

Chairman Murphy: Any questions? Go ahead.

Commissioner Hart: Okay. Thank you, Mr. Chairman. On September 13, 2011, the Board of Supervisors referred to the Planning Commission for its review and recommendation a report that had been prepared by the MITRE Corporation entitled "Electric Vehicle Charging Infrastructure Recommendations to Fairfax County." The report was, in turn, referred to the Environment Committee, which began its review of the MITRE report in early 2013 – and which finalized its report and recommendations on October 21 of this year. The Committee's report and recommendations were transmitted to the full Planning Commission from Planning Commission staff per an October 28, 2015 memorandum from Noel Kaplan to Jill Cooper. That transmittal

included the Committee's report, along with an excerpt from the report summarizing the Committee's recommendations. The report and recommendations reflect an extensive Committee review process that included a dozen meetings in advance of completion of an April 2014 discussion draft of the Committees' report – opportunities for stakeholder review and input on both a list of policy questions that was developed early in the process and the April 2014 discussion draft of the Committee report – a public workshop on the draft report – and several Committee meetings to review issues identified at the workshop. On October 21, 2015, the Environment Committee voted to recommend that the Planning Commission transmit this report as its recommendation to the Board of Supervisors. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE THE OCTOBER 21, 2015 ENVIRONMENT COMMITTEE REPORT THAT THE REPORT AND SUMMARY OF RECOMMENDATIONS BE TRANSMITTED TO THE BOARD OF SUPERVISORS AS THE PLANNING COMMISSION'S RECOMMENDATION IN RESPONSE TO THE BOARD'S SEPTEMBER 13, 2011 REQUEST AND THAT THE PLANNING COMMISSION REQUEST THAT THE BOARD AUTHORIZE THE PLANNING COMMISSION AND STAFF TO PROCEED, CONSISTENT WITH THE RECOMMENDATIONS IN THE REPORT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion, as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Hart: I want to also thank staff. Let me particularly thank Noel Kaplan for his wisdom and his guidance and his patience over the last couple years trying to get the Committee through some very difficult issues. And, as always, I think he – his work was outstanding. And we wouldn't be at the point we are tonight without Mr. Kaplan's fine work.

(The motion carried by a vote of 9-0. Commissioners Hurley, Migliaccio, and Strandlie were absent from the meeting.)

(End Verbatim Transcript)

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RZ/FDP 2015-SP-004 – CHRISTOPHER LAND, LLC (Decisions Only)
(The public hearing on these applications were held on October 21, 2015.)

(Begin Verbatim Transcript)

Commissioner Murphy: Mr. Chairman, I have a decision only this evening on RZ/FDP 2015-SP-004. This is a 6.53 acre parcel to be developed at 2 units – 12 units to the acre, in conformance with the Plan. And, as I mentioned before, when I deferred decision on this, this application is sort of a direct result from Fairfax Forward because it was an area that was considered in the residential section of Fairfax Center. And the recommendation was to up the density from two dwelling units to the acre – two to three. And the citizens in that area are very happy with the fact that they wanted to preserve the high end of the range to be two units to the acre and we moved to do that. And I mentioned once that was accomplished that there would be development on that parcel at two units to the acre so don't be surprised. And, low and behold, there is development coming on that property at two units to the acre and the citizens support it 100 percent. It is in conformance with the Comprehensive Plan, the applicable Zoning Ordinance, and it almost maxes the Fairfax Center checklist for residential development. So therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS TO APPROVE RZ 2015-SP-004, SUBJECT TO THE EXECUTION OF PROFFERS DATED OCTOBER 21ST, 2015.

Commissioner Hart: Second.

Vice Chairman de la Fe: Seconded by Commissioner Hart. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? Motion carries.

Commissioner Murphy: I FURTHER MOVE, Mr. Chairman, THE PLANNING COMMISSION APPROVE FDP 2015-SP-004, SUBJECT TO THE BOARD'S APPROVAL OF THE REZONING AND CONCEPTUAL DEVELOPMENT PLAN.

Commissioner Hart: Second.

Vice Chairman de la Fe: Seconded by Commissioner Hart. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

(Each motion carried by a vote of 8-0-1. Commissioner Lawrence abstained. Commissioners Hurley, Migliaccio, and Strandlie were absent from the meeting.)

(End Verbatim Transcript)

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RZ 2015-SP-003 – CHRISTOPHER LAND, LLC (Decision Only)

(The public hearing on these applications were held on November 4, 2015.)

(Begin Verbatim Transcript)

Commissioner Murphy: Okay, thank you very much. RZ 2015-SP-003 is a residential – proposed for residential development at – to go from R-1 to R-8, excuse me, with a density of – let me get my notes together here.

Mr. Rogers: 6.4, sir.

Commissioner Murphy: Oh, here it is right here – yeah, 6.58 dwelling units per acre with 12 units – a townhouse development. We had a lot of testimony and I appreciate the folks who sent in testimony – written and email testimony – and those who came to the public hearing, especially our neighbors across the white line – or median strip on Burke Lake Road in the Braddock District. They took an interest in this application and I can see why. Some of the problems that they had with the application were, in fact, what I would call pre-existing conditions. It had been part of Burke Lake Road for a long time. In 1984, the Comprehensive Plan said that Burke Lake Road would become a four-lane road from Rolling Road right out through where the bypass is now. And quite frankly, that is in itself right now, when built in 1977 or – actually, it was built in the late 80s – there is a connectivity between Braddock Road on one side and Braddock Road on the other side. You can go from one end of Braddock Road to the other. If you go down Burke Lake Road across the parkway up onto – across West Ox Road – rather go through the Town of Clifton – meander through the town – you come out, eventually, on Braddock Road. And it was designed to accumulate – to accommodate, I should say, a higher volume of traffic because it was, at that time, an area that was landlocked almost every morning – every evening – people using Burke Lake Road. It was only two lanes. And during that particular time, Lincolnwood was one of the developments that was built in 1977. I'm sure there are some people who have lived in Lincolnwood since 1977 and remember what Burke Lake Road was like without the median strip. And there are some that still – that live in Lincolnia – in Lincolnwood now that bought their property when the median strip was built and knew at that time – and still know – that it's a right-in/right-out community. And that brings about some U-turns at Compton Road and at Shiplett Boulevard. And I know someone said that those extensions of the median strip at Shiplett Boulevard and Burke Lake Road do not help. I disagree with that. I think they help a lot and that was done by a development that was in the Braddock District – and, parenthetically, had the same applicant as we have here this evening. Someone talked about volumes of traffic on Burke Lake Road. This current development would have 96 key – 96 trips during the rush hour. And the other development that's down Burke Lake Road that was in the Braddock District is nine units. They would have 90 vehicle trips per day. Sunrise, which was the big R-2 to R-3 development with the Special Exception for senior housing – they had averaged over about – over 200 vehicle trips per day. So just because there are – U-turns are allowed at several intersections there does not mean that those U-turns were designed to stop growth on Burke Lake Road. On the contrary, there are still some parcels on Burke Lake Road that will also – will develop. And as I mentioned at the end of the public hearing, we received some letters and comments and emails from folks on applications or problems or issues that were not a part of this application. So going back to what we have to do – we have to look at this application in light of the Comprehensive Plan. And it is in accordance

with the Comprehensive Plan – with the Zoning Ordinance – it is in conformance with the Zoning Ordinance – and with the Residential Development Criteria – and it meets the Residential Criteria. It was aired before the West Springfield Land Use – the Springfield Land Use Committee and received approval – rating of approval with one dissenting vote. And also, we have the staff's approval. So therefore, Mr. Chairman, I WOULD MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE RZ 2015-SP-003, SUBJECT TO the proffers – and there's only that one change in the proffers, which deals with Sheet 5A – with THE PROFFERS DATED NOVEMBER 18TH, 2015.

Commissioner Hart: Second.

Vice Chairman de la Fe: Seconded by Mr. Hart. Is there any discussion? Hearing and seeing none, all those in favor please signify by saying, aye.

Commissioners: Aye.

Vice Chairman de la Fe: I, as the Mr. Chairman – I abstain. I was not present for the public hearing. So the motion carries.

Commissioner Murphy: And we have four modifications or waivers to consider. Mr. Rogers, I know you gave your sheet with three and I've misplaced that again. So I WOULD MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS:

- THE MODIFICATION OF PARAGRAPH 1 OF SECTION 3-806 OF THE ZONING ORDINANCE REQUIRING A MINIMUM DISTRICT SIZE OF FIVE ACRES FOR THE R-8 DISTRICT TO ALLOW 1.88 ACRES;
- MODIFICATION OF SECTION 13-303 OF THE ZONING ORDINANCE REQUIRING TRANSITIONAL SCREENING TO PERMIT THE LANDSCAPING, AS SHOWN ON THE GENERALIZED DEVELOPMENT PLAN;
- WAIVER OF SECTION 13-304 OF THE ZONING ORDINANCE REQUIRING BARRIERS; AND
- Deviation from the – A DEVIATION FROM SECTION 12-0508 OF THE PUBLIC FACILITIES MANUAL TO PERMIT A REDUCED TREE PRESERVATION TARGET, AS SHOWN ON THE GENERALIZED DEVELOPMENT PLAN.

Commissioner Hart: Second.

Vice Chairman de la Fe: Seconded by Mr. Hart. Any discussion? Hearing and seeing none, all those in favor please signify by saying, aye.

Commissioners: Aye.

Vice Chairman de la Fe: Motion carries with my abstention.

Commissioner Lawrence: Mr. Chairman?

Vice Chairman de la Fe: Yes.

Commissioner Lawrence: Although I'm in the affirmative on this proposition, I think I'm going to need to retract my vote because I'm pretty sure I wasn't here for the public hearing.

Vice Chairman de la Fe: Okay.

Commissioner Murphy: Just one other thing, Ms. Strandlie-

Vice Chairman de la Fe: Same abstentions.

Commissioner Murphy: -couldn't be here this evening, but she sent me an email. And I would like to ask the developers – between now and the Board hearing date, she's interested in the proffer regarding the contribution to the homeowners association. If you'd take a look at that and review it and let us know what you're going to do prior to the Board hearing, I would be most appreciative. Thank you very much.

(Each motion carried by a vote of 7-0-2. Commissioners de la Fe and Lawrence abstained. Commissioners Hurley, Migliaccio, and Strandlie were absent from the meeting.)

(End Verbatim Transcript)

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ORDER OF THE AGENDA

Secretary Hart established the following order of the agenda:

1. FDP 2011-PR-011-03 – CITYLINE PARTNERS, LLC
2. SEA 79-D-071-02 – THE TEA CENTER, LLC

This order was accepted without objection.

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FDP 2011-PR-011-03 – CITYLINE PARTNERS, LLC – Appl. to approve the final development plan for RZ 2011-PR-011 to permit office with retail. Located in the S.W. quadrant of the intersection of Colshire Dr. and Colshire Meadow Dr., on approx. 1.52 ac. of land zoned PTC, HC. Tax Map 30-3 ((28)) C1 pt. PROVIDENCE DISTRICT. PUBLIC HEARING.

Lynne Strobel, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC, reaffirmed the affidavit dated October 27, 2015.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had a case where attorneys in Ms. Strobel's firm were representing an adverse party. However, he noted that this matter and those parties were not related to this case and there was no business or financial relationship; therefore, it would not affect his ability to participate in this case.

Suzanne Wright, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application FDP 2011-PR-011-03.

Commissioner Lawrence asked whether the documentation of the Transportation Demand Management provisions (TDM) that had been proffered in the previously-approved rezoning application for the subject property (RZ 2011-PR-011) were included in the subject application. Ms. Wright indicated that this documentation was not currently part of the record for this application, but the applicant could confirm that the provisions of the TDM articulated in RZ 2011-PR-011 would be incorporated in conjunction with the proposal. (A copy of this document is in the date file.)

Commissioner Lawrence pointed out that the language in Development Condition Number 6 had been modified to permit additional flexibility for the shape of the portions of the building located above the ground level to accommodate wider spaces. Ms. Wright confirmed that these modifications had been incorporated into the revised set of development conditions dated November 17, 2015. She added that an exhibit had been included with this revised set to provide a depiction of the design for the proposed building, stating that the applicant would be permitted to utilize additional width at the core of the building to accommodate additional features, such as a stairwell and elevators.

Ms. Strobel explained the following:

- The subject application was part of the Scott's Run South development, which was part of a larger development that had been approved by the Board of Supervisors in April 2013;
- The Scott's Run South portion of the site would contain a mixed-use development that included hotel, office, residential, and retail uses that utilized designs consistent with transit-oriented urban development;
- The subject property was referred to as Building C of the Taylor Block on the proffers for RZ 2011-PR-011 and the previously-approved Conceptual Development Plan (CDP) associated with this rezoning;
- The subject application proposed an office building that measured approximately 163 feet and approximately 220,000 gross square feet, which was consistent with the previously-approved CDP for the site;

- The proposed development would be the first building constructed on the Taylor Block, which would eventually accommodate three buildings;
- The overall development on Taylor Block would be phased to incorporate features such as parking, parks, open space, and road improvements; and
- The applicant had included interim and ultimate plans in the subject application.

Ms. Strobel concurred with staff's recommendation for approval, adding that the proposed development would contribute to the development of Tysons Corner. In addition, she pointed out that the overall Scott's Run South Master Plan had received multiple awards in recognition of its design, innovation, and commitments to sustainability. Ms. Strobel indicated that the McLean Citizens Association (MCA) supported the proposal. She then addressed Commissioner Lawrence's request regarding the documentation for the previously-approved TDM program for the subject property, stating that the applicant would make this documentation part of the record. (A copy of the document detailing the TDM program for the subject property is in the date file.)

There being no listed speakers, Chairman Murphy called for speakers from the audience and recited the rules for public testimony.

Mark Zetts, 6640 Kirby Court, Falls Church, representing the MCA, spoke in support of the subject application. He said that the applicant had met with the MCA in June 2015 to discuss the proposal. He then echoed Ms. Strobel's remarks regarding the design of the proposed building, stating that it was consistent with the previously-approved CDP for the site. Mr. Zetts also commended the design of the proposed building. (A copy of Mr. Zett's statement is in the date file.)

Commissioner Lawrence commended Mr. Zett's testimony.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Ms. Strobel, who declined.

Commissioner Hedetniemi echoed remarks from Mr. Zett's regarding the design of the proposed development.

When Commissioner Lawrence asked whether the applicant had agreed to the revised set of development conditions dated November 17, 2015, Ms. Strobel indicated that the applicant agreed to these conditions.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Lawrence for action on this case.

(Begin Verbatim Transcript)

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Chairman Murphy: Public hearing is closed. Mr. Lawrence.

Commissioner Lawrence: Thank you, Mr. Chairman. There's a comment I'd like to make. Many people for many years labor over the Tysons Comprehensive Plan. That plan provided a framework for this applicant to create the design they have created for Scott's Run. The plan, you may recall, received its own APA award. And here we have an award-winning design executed against the specifications of this plan. This is what Tysons should be all about. This is the kind of thing we want to create for this County to have jewels in the crown of Tysons. Therefore, Mr. Chairman, with pleasure I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2011-PR-011-03, SUBJECT TO DEVELOPMENT CONDITIONS DATED NOVEMBER 17TH, 2015.

Commissioners Flanagan, Hedetniemi, and Ulfelder: Second.

Chairman Murphy: Seconded by Ms. Hedetniemi and Mr. Flanagan. Is there a – and Mr. Ulfelder – is there a discussion of the motion? All those in favor of the motion to approve FDP 2011-PR-011-03, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: I'd like to thank Suzanne Wright, who has been the horse that carried this thing all the way through. Thank you very much.

(The motion carried by a vote of 9-0. Commissioners Hurley, Migliaccio, and Strandlie were absent from the meeting.)

(End Verbatim Transcript)

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SEA 79-D-071-02 – THE TEA CENTER, LLC – Appl. under Sect. 3-104 of the Zoning Ordinance to amend SE 79-D-071 previously approved for a private club to permit a child care center and associated modifications to site design and development conditions. Located at 999 Balls Hill Rd., McLean, 22101, on approx. 3.00 ac. of land zoned R-1. Tax Map 21-3 ((1)) 66B. DRANESVILLE DISTRICT. PUBLIC HEARING.

Jane Kelsey, Jane Kelsey & Associates, Inc., reaffirmed the affidavit dated November 9, 2015.

There were no disclosures by Commission members.

Michael Van Atta, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of application SEA 79-D-071-02.

Commissioner Ulfelder said that the Commission had received comments from the owner of the property located south of the site expressing concern about increasing the enrollment of the proposed child care center beyond 40 children due to the subsequent traffic impact on Balls Hill Road. He then pointed out that Development Condition Number 12 in the revised set stipulated that the applicant was precluded from expanding the enrollment beyond 40 children until an Operational Analysis of Balls Hill Road was completed. Commissioner Ulfelder added that the Operational Analysis would address these concerns regarding the traffic impact on this road. He also noted that the enrollment for the proposed child care center would not be permitted to increase beyond 70 children. Mr. Van Atta concurred with Commissioner Ulfelder's statement. (A copy of the revised development conditions dated November 19, 2015, is in the date file.)

Commissioner Hart expressed concern about the second sentence of Development Condition Number 14, which stated that outdoor play shall not be within 50 feet of any property line. He pointed out that the designated play area, as depicted on the Special Exception Plat, appeared to be located within this 50-foot limit near the neighboring property to the south of the site. He then recommended that this language be revised. In addition, Commissioner Hart expressed concern that there was no barrier along the southern property line to prevent children from entering neighboring properties. Mr. Van Atta noted that there were bushes located along the southern property line near the play area, which provided a barrier between the properties. In addition, he indicated that the applicant would utilize cones or markers to delineate the play area for the children. Commissioner Hart then expressed concern regarding the County's ability to enforce this development condition in the absence of a sufficient barrier.

When Commissioner Hart asked whether the second sentence of Development Condition Number 14, which articulated the limitations of the play area for the child care center, applied to every day in which the facility was in use, Mr. Van Atta confirmed that this provision would apply to every day and indicated that he did not object to modifying the development condition to ensure it stated as such.

Commissioner Hedetniemi echoed concerns from Commissioner Hart regarding the sufficiency of the barrier between the site and the neighboring property to the south, stating that she supported installing a fence to improve the safety of the children. Mr. Van Atta addressed these concerns, saying that the age range of the children that would be cared for at the proposed child care facility were of upper elementary and early middle school age, which were less likely to incur such issues. He also stated that these children would be monitored while the outdoor play area was in use. In addition, Mr. Van Atta noted that there was not significant activity in the parking area to warrant safety concerns. He then added that a portion of the parking lot would be reserved for pick-up/drop-off to ensure that the activity in the parking lot would not affect the outdoor play area. However, Mr. Van Atta acknowledged the difficulty of enforcing the applicant's provisions to prevent children from entering areas outside the designated play area.

Referring to the transportation analysis conducted by the Fairfax County Department of Transportation (FCDOT), as shown in Appendix 5 of the staff report, Commissioner Sargeant stated that this analysis concluded that the proposed enrollment of 40 children at the facility on the site would not incur a significant impact on Balls Hill Road. He then asked whether staff had safety concerns for the parents of the children attending the facility when exiting or entering the site. Mr. Van Atta indicated that staff's primary concern in reviewing the subject application was

the subsequent impact on Balls Hill Road. He pointed out that the applicant's transportation study concluded that Balls Hill Road could accommodate the impact of a student enrollment of more than 40 children at the facility on the site, but noted that staff did not support the extent of these conclusions. Mr. Van Atta then explained that the Operational Analysis prescribed by Development Condition Number 12 was intended to address concerns such as the safety of vehicles entering and exiting the site, but indicated that staff did not object to an enrollment of 40 children because the expected impact would not generate a significant impact on Balls Hill Road, adding that the use of staggered pick-up/drop-off and restricted hours of operation would mitigate this impact.

Answering questions from Commissioner Ulfelder, Mr. Van Atta explained the following:

- The approval of the subject application would permit a child care center on the subject property with an enrollment of 35 to 40 children; and
- The approval of this use would be done with understanding that additional analysis of the traffic impact on Balls Hill Road would be necessary to determine whether increasing the enrollment beyond 40 children was warranted.

Commissioner Ulfelder stated that the McLean Citizens Association (MCA) had raised concerns regarding the existing traffic congestion on Balls Hill Road and indicated that he shared these concerns. When he asked whether staff supported an enrollment of 40 children at the facility on the site with a staggered pick-up/drop-off schedule, Mr. Van Atta indicated that staff supported such a use because the provisions articulated in the development conditions sufficiently mitigated the subsequent impact.

Ms. Kelsey commended staff for coordinating with the applicant on the subject application. She described the child care services that would be provided at the facility, pointing out that tutoring service would be offered. She also noted the quality of the care offered at the facility. Ms. Kelsey also said that the size of the property and the existing building was sufficient to accommodate a child care center. She then addressed concerns raised by the Commissioners regarding the impact of the proposed child care center on neighboring properties, stating that the barrier separating the properties included mature trees and such features would provide a sufficient barrier. Ms. Kelsey said that a meeting had been conducted at the existing facility on the site to discuss the subject application with surrounding property owners and no objections were expressed, noting that the McLean Presbyterian Church had submitted a letter in support of the application. She acknowledged that staff and the MCA had expressed concern about the proposal's traffic impact on Balls Hill Road. Ms. Kelsey then explained that the applicant had coordinated with staff to determine that the site could accommodate an initial enrollment of 40 children with the potential for additional capacity, subject to a review of an Operational Study that would be conducted after a year of the proposed use. She stated that the procedure for increasing the enrollment at the proposed child care center was articulated in the development conditions. Ms. Kelsey noted that Cooper Intermediate School was located to the east of the site and the applicant would coordinate with this facility in transporting children to their respective schools. She pointed out that the proposal was consistent with the recommendations of the Comprehensive Plan and adhered to the standards prescribed by the Zoning Ordinance for a Special Exception. (A copy of the letter from McLean Presbyterian Church is in the date file.)

Commissioner Ulfelder said that the neighboring property owners to the south of the subject property that had raised concerns about the proposal's traffic impact had also raised concerns regarding the condition of the existing landscaping on the site and the safety issues associated with these conditions. He also indicated that the applicant had been coordinating with the neighboring property owner to the south to address this issue and asked if these efforts were ongoing. Ms. Kelsey confirmed that the applicant had met with this property owner to address these issues and coordination with this property owner would continue. She noted that the applicant would replace a number of trees along the barrier between the site and the neighboring property, adding that this provision was articulated in Development Condition Number 20.

Referring to the last sentence in Development Condition Number 15, which specified that the log book that the applicant was required to maintain to document the pick-up/drop-off procedures for the children would be utilized in the Operational Analysis; Commissioner Flanagan asked for additional information about the implementation of this language. Ms. Kelsey confirmed that the condition required that the applicant document when a child arrived and departed from the child care center, adding that staff had coordinated with the applicant on the language for this condition. Mr. Van Atta added that the use of a log book was a standard practice for a child care facility and this practice was articulated in the development conditions to ensure that the staggered drop-off/pick-up provisions were sufficiently documented. He then stated that this information would be utilized in the Operational Analysis. A discussion ensued between Commissioner Flanagan and Mr. Van Atta regarding subsequent increases in enrollment for the proposed child care center if the subject application were approved wherein Mr. Van Atta explained that the enrollment at the facility could potentially increase to 70 children without requiring the approval of a Special Exception Amendment, stating that staff would determine whether such increases were warranted based on the conclusions of the Operational Analysis. He also stated that a future determination was limited only to the enrollment requirements and would not modify the operating policies of the facility.

There being no listed speakers, Chairman Murphy called for speakers from the audience.

Mark Zetts, 6640 Kirby Court, Falls Church, representing the MCA, spoke in opposition to the proposal. He acknowledged the demand for child care services and indicated that the MCA did not object to permitting an enrollment of up to 40 children, but stated that an enrollment beyond this limit would incur a significant impact on Balls Hill Road. Mr. Zetts noted that Balls Hill Road was subject to significant traffic congestion under the subject property's existing condition. He said that the MCA concluded that staggered pick-up/drop-off schedule would sufficiently mitigate the proposal's transportation impact during the morning peak-hour traffic periods, but these provisions were not sufficient for the evening peak-hour periods because exiting the site during this period was potentially hazardous, noting the difficulty of making left turns into and out of Balls Hill Road. Mr. Zetts stated that the MCA recommended additional information on the effectiveness of the applicant's traffic mitigation provisions to demonstrate that the site could accommodate an enrollment beyond 35 children. Referring to the MCA's resolution, which was included in his statement, he said that the MCA favored staggered increases in enrollment, which would be subject to a review of the effectiveness of the applicant's policies. Mr. Zetts also pointed out that recent modifications to I-495 had created a significant traffic impact on Balls Hill Road and the proposal would worsen this condition. (A copy of Mr. Zetts' statement is in the date file.)

Commissioner Ulfelder pointed out that Development Condition Number 12 articulated the procedures for the applicant to expand its enrollment beyond 40 children, which included an Operational Analysis of the traffic impact of the proposal. He then explained that this provision was consistent with the MCA's recommendations for increasing the enrollment at the proposed child care center, but noted that staggering the enrollment was not necessary due to the existing requirement for an Operational Analysis to warrant the initial increase beyond 40 children. Mr. Zetts stated that the MCA had concluded that this Operational Analysis requirement was not sufficient because it did not sufficiently assess the overall traffic impact on the surrounding area or document the efficiency of the on-site circulation for vehicles entering and exiting the site. He then indicated that staggering the enrollment increase would provide a more comprehensive analysis on the proposal's traffic impact, adding that such an approach would be easier for FCDOT staff to assess.

Commissioner Ulfelder asked for additional information about the Operational Analysis that FCDOT would conduct in assessing whether an enrollment increase beyond 40 children was warranted. Jeffrey Hermann, Transportation Planner III, FCDOT, explained that an Operational Analysis of the proposal's traffic impact would include the following:

- A gap analysis for the vehicles entering and exiting the site;
- An analysis of the turning movements for vehicles entering and exiting the site;
- An analysis of the left-turn queue on Balls Hill Road for vehicles entering the site; and
- An assessment of the number of trips that would be generated by the initial enrollment at the proposed child care center.

In addition, Mr. Hermann stated that the Operational Analysis would utilize information from the log book that would be maintained at the child care center to ensure the accuracy of the analysis. He then said that FCDOT had concluded that the information provided by the Operational Analysis would be sufficient in making an appropriate determination regarding the enrollment for the facility. A discussion ensued between Commissioner Ulfelder and Mr. Zetts regarding the accuracy of the conclusions of the Operational Analysis in determining whether an enrollment increase was warranted wherein Mr. Zetts said that the extent of the enrollment increase that was possible under the subject application was too significant for an Operational Analysis to accurately assess, adding that such a determination would not be subject to approval by the Planning Commission or the Board of Supervisors.

When Commissioner Hart asked whether Development Condition 12 had been vetted by the County Attorney's office, Mr. Van Atta indicated that this condition had not been vetted. Commissioner Hart then expressed concern that the language of the condition did not sufficiently clarify who would make the determination that an enrollment increase beyond 40 children was warranted. He then asked whether delegating the determination of whether an enrollment increase at the site was appropriate, pointing out that there had been instances where applicants had challenged approved development conditions where certain provisions of a condition were delegated to staff. Catherine Lewis, ZED, DPZ, said that staff would coordinate with the County Attorney's office to determine whether this provision was appropriate, adding that staff had been encouraged to craft the development condition in a manner that permitted an administrative

approval for an enrollment increase. Commissioner Hart reiterated his concern regarding the implementation of an administrative approval process for this provision.

Commissioner Hart expressed concern that the determination made by staff to permit or preclude an enrollment increase at the proposed child care center would be challenged through an appeals process administered by the Fairfax County Board of Zoning Appeal. Ms. Lewis explained that if the applicant disagreed with staff's determination regarding the enrollment at the site, then a Special Exception Amendment could be pursued as a means to challenge this determination. Commissioner Hart reiterated his concern, stating that permitting staff to make such a determination would incur unintended consequences from those seeking to challenge this determination.

In response to questions from Commissioner Litzenberger, Mr. Zetts acknowledged that there was a need for child care services in the area. He also stated that the proposal would not significantly impact the traffic patterns on I-495 and Georgetown Pike. A discussion ensued between Commissioner Litzenberger and Mr. Zetts regarding the MCA's opposition to the subject application wherein Mr. Zetts indicated that the traffic impact on Balls Hill Road was the MCA's primary concern, reiterating that vehicles entering and exiting the site would increase the traffic congestion on Balls Hill Road.

Commissioner Ulfelder said that the impact of recent modifications to I-495 on Balls Hill Road during peak-hour traffic could not be sufficiently assessed, but acknowledged that Balls Hill Road was significantly affected by peak-hour traffic. Mr. Zetts concurred with this statement.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Ms. Kelsey, who deferred to Kevin Spitzman, Transportation Planner, Gorove/Slade Associates, Inc., to address Mr. Zetts' concerns regarding the proposal's traffic impact. He indicated that the Operational Analysis that would be conducted under Development Condition 12 to determine whether an enrollment increase beyond 40 children was warranted would utilize numerous measures of data in making this determination. He then explained the process for conducting the Operational Analysis, noting that information from similar sites would be incorporated to assess the data. Mr. Spitzman also echoed remarks from Mr. Hermann regarding the accuracy of the information that would be utilized in the Operational Analysis and indicated that this information would be sufficient in determining an appropriate enrollment increase at the site, if any.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Ulfelder for action on this case.

(Begin Verbatim Transcript)

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Chairman Murphy: Public hearing is closed. Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. In light of questions that have been raised, particularly by Commissioner Hart concerning Conditions 12 and 14, I think it would be best to

take a little bit of time to rework some of the language and to address the – some of the legal and other questions that have been raised. So I AM GOING TO MOVE THAT THE PLANNING COMMISSION DEFER DECISION ONLY FOR SEA 79-D-071-02 TO A DATE CERTAIN OF DECEMBER 9TH, 2015, WITH THE RECORD REMAINING OPEN FOR ADDITIONAL COMMENT – written comments.

Commissioner Hart: second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of the motion? All those in favor of the motion to defer decision only on SEA 79-D-071-02 to a date certain of December 9th, with the record remaining open for comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

(The motion carried by a vote of 9-0. Commissioners Hurley, Migliaccio, and Strandlie were absent from the meeting.)

(End Verbatim Transcript)

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The meeting was adjourned at 9:30 p.m.

Peter F. Murphy, Chairman

James R. Hart, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jacob Caporaletti

Approved on: May 18, 2016



John W. Cooper, Clerk
Fairfax County Planning Commission